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Name of procedure:

Procedures for preparing and issuing contaminated sites legal instruments

Staff affected:

Ministry of Environment staff responsible for administering contaminated sites legal instruments

Authority:

Environmental Management Act (Section 44 and Part 4, Division 4)
Contaminated Sites Regulation (Section 16, Part 8 and Part 9)

Purpose of procedure:

To provide guidance to Ministry of Environment staff and Approved Professionals who prepare draft contaminated sites legal instruments and who act on behalf of the Director processing contaminated sites legal instrument applications.

Relationship to previous procedure:

None.

Issued by: Director, Environmental Management Branch

Director's Approval:

Environmental Management Branch

Date:

1.0 Definitions

The following words, acronyms and expressions used in this document are defined in the ministry procedure “Definitions and Acronyms for Contaminated Sites.”

Act	monitoring plan
affected parcel	non-high risk site
affected site	numerical standards
Approval in Principle	operations and maintenance plan
Certificate of Compliance	owner
Client Information Officer	parcel
contaminant	performance verification
contaminated site	PID
contaminated sites legal instrument	PIN
Contaminated Soil Relocation Agreement	Regulation
CSAP Society	remediation
CSRA	risk-based standards
Determination of Contaminated Site	risk managed high risk site
Director	risk management
DRA	risk management measure
engineering control	SITE
high risk site	SLRA
institutional control	source parcel
instrument	source site
intrinsic control	

2.0 General

This procedure provides guidance for ministry staff delegated to administer and sign contaminated sites legal instruments (instruments) on behalf of the Director. It is also intended for the use of ministry staff and Approved Professionals who prepare draft instruments.

3.0 Authority

Section 53 (1) of the Act indicates that for the purposes of issuing Approvals in Principle and Certificates of Compliance that “a Director may rely on any information the Director considers sufficient for the purpose.” In addition, in making decisions on instrument applications, a Director is required to observe

procedural rights and fairness requirements under the principles of administrative law.

4.0 Director's discretion

This document serves as guidance to a Director and is not binding. Each site and application for an instrument presents a unique set of circumstances which should be considered when a Director is reviewing an application to issue a contaminated sites instrument.

This procedure is to be read in harmony with the Act, its regulations and protocols, and associated policies, procedures and guidance documents. Its provisions are to be applied by a Director in accordance with the overriding purpose of protecting human health and the environment.

Notwithstanding the provisions of this procedure, a Director may issue an order requiring remediation of contamination where the Director is satisfied that, based on the available information and investigations, such an order is appropriate for environmental protection or human health reasons.

5.0 Applications for instruments with Approved Professional recommendations

[Protocol 6, "Eligibility of Applications for Review by Approved Professionals"](#) specifies where certain activities, reports and other documents, and recommendations must be performed by or provided to the Director by an Approved Professional.

Under that protocol, Approved Professionals are restricted to making recommendations to the Director to issue Approvals in Principle and Certificates of Compliance for non-high risk sites. However, Approved Professionals may make recommendations to the Director for both high risk and non-high risk sites for applications for Determinations of Contaminated Site and Contaminated Soil Relocation Agreements.

The protocol also addresses Approved Professional recommendations and reports in the context of:

- statements of confirmation of the presence of required risk assessment conditions and satisfactory performance of risk management measures required as a condition of an instrument,
- monitoring reports,

- site risk classifications under [Protocol 12, “Site Risk Classification, Reclassification and Reporting”](#), and
- local government authorization releases under the ministry’s [“Procedures for Processing Site Profiles.”](#)

6.0 Procedure

A Director should be guided by the procedures in this document in determining whether or not to issue a contaminated sites instrument.

7.0 Screening and rejection of submissions

7.1 Initial application submission and screening

- 7.1.1 All applications for services must be sent to the Client Information Officer for initial screening, entry of application information into CATs (the Contaminated Sites Application Tracking system) and distribution to staff for further processing.
- 7.1.2 Staff involved with requiring covenants must inform the Client Information Officer when they require a covenant so the Client Information Officer can arrange for a new or amended service application, to formalize the client’s request for a covenant review.
- 7.1.3 Part C of the Contaminated Sites Services Application form lists the types of services requiring the submission of the form. Those services and their corresponding fees are listed in Tables 2 and 3 of Schedule 3 of the Regulation. Application forms are required, for example, for the review of a covenant or monitoring report required by the ministry, or for a wide area site designation by a Director.
- 7.1.4 The most common contaminated sites service applications are for contaminated sites legal instruments. However, contaminated sites service applications are also required for other types of submissions, including, for example, information received by the ministry as a condition in an instrument such as a monitoring report. Staff should send, and remind clients to send such information to the Client Information Officer before it is processed or reviewed.
- 7.1.5 An initial quality assurance review must be done to determine the completeness of an application for an instrument, including the payment of applicable fees. The basic submission requirements are described in subsection 7.2.

7.2 Basic submission requirements

7.2.1 Who may apply for an instrument?

The applicant for a contaminated sites legal instrument varies with the type of instrument under B.C.'s contaminated sites legal regime, for example:

- Determinations of Contaminated Site – while the applicant is not specified section 44 (1) of the Act authorizes a Director to determine whether a site is contaminated and if it is, to determine its boundaries.
- Approvals in Principle – section 53 (1.1) of the Act enables a Director upon receipt of an application from a responsible person to issue an Approval in Principle.
- Certificates of Compliance – section 53 (3) of the Act authorizes a Director to issue a Certificate of Compliance and section 49 (1) of the Regulation specifies that any person may apply for a Certificate of Compliance.
- Contaminated Soil Relocation Agreements – section 55 (1) of the Act indicates that a person must enter into a Contaminated Soil Relocation Agreement if that person intends to relocate contaminated soil from a contaminated site. As well as the source site and receiving site owners, the agreement is signed by a Director.

7.2.2 Submission enclosures for applications without Approved Professional recommendations

The following must be submitted to support each application for a contaminated sites legal instrument made to a Director which is not accompanied by the recommendation of an Approved Professional that the application be approved:

- A satisfactorily completed [Contaminated Sites Services Application Form](#) with payment. A checklist in the form lists the report sections, pages, and figures which must be provided, including those documents required for site risk classification.
- For applicants who are not owners of the property, written confirmation from the owner that the owner consents to obtain the contaminated sites legal instrument and commits to fulfil any conditions in the instrument if the need arises.
- A Site Risk Classification Report, and if required, an Exposure Pathway Questionnaire. Any exceptions are described in [Protocol 12, "Site Risk Classification, Reclassification and Reporting"](#).
- A satisfactorily completed [Summary of Site Condition](#).
- All relevant technical reports (preliminary site investigation and detailed site investigation reports, risk assessments, remediation plan, remediation

- confirmation report, etc. as applicable). Refer to [Administrative Guidance 3, “Applying for Contaminated Sites Services”](#) for details.
- For those instrument applications which are based on an earlier decision by a Director on land, water, sediment or vapour use at a site, a written copy of the Director’s decision.
 - For those instruments which are based on the installation of works to remediate the site, designs of those works which are stamped with the seal of a professional engineer. For Approvals in Principle based on risk-based remediation standards a complete risk assessment report (both a baseline risk assessment and a risk assessment for the risk management scenario for the selected remedial approach must be included).
 - For Contaminated Soil Relocation Agreements, where the risk-based standards will be used for the receiving site, either a detailed risk assessment or an assessment under [Protocol 13, “Screening Level Risk Assessment”](#) may be used and a complete report for the risk assessment performed must be provided.
 - Completed checklists for a preliminary site investigation report and detailed site investigation report (see [Technical Guidance documents 10 and 11](#)).
 - A current printout of the land title record (or records) pertaining to the site for which the Determination, Approval in Principle, Certificate of Compliance, or Contaminated Soil Relocation Agreement is being sought.
 - Current Land Title Office legal plan(s) for the site.
 - A copy of any draft or final covenant under section 492 of the *Land Title Act* which deals with the management of contamination and the Provincial Crown is expected to, or has signed the document. A Director typically may require a covenant for a site which is a high risk, risk managed high risk, or type 3 remediation site.
 - A letter of credit or other evidence that security required by a Director has been provided for the site, under Protocol 8, “Security for Contaminated Sites.”
 - A current Selection List from an area-based Site Registry search (0.5 km radius) and site Detail Report for the site.
 - A PC-formatted CD or DVD containing all of the information noted above as being required to be submitted in electronic form in MS Word® or pdf format.

The following written statements may also be submitted to support an application for an Approval in Principle or Certificate of Compliance for a parcel contaminated by substances migrating from a source parcel:

Confirmation that any measures necessary to prevent recontamination of an affected parcel by contamination originating at a source parcel have been, in the case of a Certificate of Compliance, or would be, in the case of an Approval in Principle, put in place

- (i) by an Approved Professional, that the design of any works or implementation of other measures required in the opinion of the Approved Professional to prevent recontamination of the affected parcel from the source parcel would, if operated and maintained as specified by the Approved Professional, prevent recontamination of the affected parcel; and
- (ii) by the current owner or operator of the source parcel, that any works or measures intended to prevent recontamination of the affected parcel would be implemented, operated, and maintained according to the Approved Professional's specifications and any requirements in a Certificate of Compliance or Approval in Principle issued for the source parcel; or
- (iii) by the current owner or operator of the affected parcel, that any works or measures intended to prevent recontamination of the affected parcel would be implemented, operated, and maintained according to an Approved Professional's specifications and any requirements in a Certificate of Compliance or Approval in Principle issued for the affected parcel.

7.2.3 Submission enclosures for applications with Approved Professional recommendations

In addition to the items in section 7.2.2, the following must be provided with applications which are required to be submitted with the recommendation of an Approved Professional that the contaminated sites legal instrument be approved.

- For those instrument applications which required preapproval under Protocol 6, a copy of the preapproval by a Director.
- Using the current template, a completed draft Determination of Contaminated Site, Approval in Principle, Certificate of Compliance, or Contaminated Soil Relocation Agreement, along with appropriate cover letter, in hard copy and electronic version in MS Word[®].
- Draft instrument Schedule "A" (site plan and location map), Schedule "B" (conditions) and Schedule "C" (substances) must be included in hard copy and electronic forms (Schedule "A" in MS Word[®]).
- Except for draft contaminated sites legal instruments and covering letters, each document must be provided in pdf file format, if possible.

- Any deviations from the standard clauses set out in the main body and schedules of a template must be highlighted and a rationale for the proposed change(s) provided in writing. This applies both to modifications of clauses in the templates as well as new clauses.
- Submissions using older versions of templates or older conditions in the Schedules are not acceptable and if submitted with the recommendation of an Approved Professional should be returned to the CSAP Society for correction.
- If an Approved Professional references a performance assessment report or addendum in a submission, the Director must be provided copies of the report or addendum.

7.3 Review of regulatory aspects of remediation

Before an instrument is signed, a Director should be assured that the work underlying the instrument application meets the requirements of the Act and Regulation. Because other legislation, regulations, bylaws and guidelines may also need to be complied with or recognized to remediate a contaminated site, it is also important to determine, with a reasonable level of diligence, if required aspects of other relevant environmental rules and guidelines have been followed. Appendix 1 provides lists of requirements and provisions which should be considered by a Director, as well as ministry staff and Approved Professionals as they develop recommendations for instruments to be approved.

7.4 Screening Approved Professional applications

- 7.4.1 The document "[Ministry Procedures for the Roster of Approved Professionals](#)" indicates that the Director must not rely on the advice or recommendation of an Approved Professional unless he or she has been provided written evidence that an arm's length review has been provided where an arm's length review is required. The situations where an arm's length review by an Approved Professional is required appear in Table 1 of that document. Section 7.3 of the Summary of Site Condition requires that Approved Professionals indicate and sign off on the types of arm's length reviews they have performed with respect to a particular service application.
- 7.4.2 If there is insufficient evidence that an arm's length review has been carried out where one is required, the service application and recommendation of the Approved Professional must be returned to the CSAP Society.
- 7.4.3 When such an application for an instrument accompanied with the recommendation of an Approved Professional is rejected, the Director should consider whether the CSAP Society, the applicant and the professional

organization of the Approved Professional (in keeping with sections 15 (7), 43 (4), 47 (1.5), and 49 (8) of the Regulation) should be notified.

7.4.4 If an application is described by one of the types listed in Table 2 of Protocol 6, preapproval is required by the Director before it may be submitted to the ministry with the recommendation by an Approved Professional. Requests for preapproval must come with a completed Contaminated Sites Services Application form with the “Additional Services / Functions” box checked in the “Other Services” section in Part C of the form.

7.4.5 The CSAP Society’s Practice Guidelines for Approved Professionals (Guidelines for Contaminated Sites Approved Professional Services on Eligible Sites) indicate that compliance with requirements under the Act, Regulation and other federal, provincial and municipal requirements should be checked. In addition to the items in Appendix 1 of this procedure, Approved Professionals should consider sections 3.2.3 (e) and (f) as well as Appendices C and D of those guidelines as they develop recommendations that their draft instruments be signed by a Director.

If there are instances of noncompliance, Approved Professionals are expected to communicate the need for compliance to their clients and if they decide to recommend that the instrument be approved, to inform the Director of the details of the noncompliance.

7.5 Applications for amendments of Approvals in Principle

7.5.1 A check for the following should be made for applications for amendments of Approvals in Principle:

- a contaminated sites services application to renew or amend the 5 year time frame to complete remediation.
- a current Site Risk Classification Report and revised remediation schedule as part of the service application.
- a new Summary of Site Condition unless the site is a high risk site.
- an Approved Professional’s written opinion about the validity of the current Approval in Principle commenting on any:
 - (a) Changes to applicable standards, protocols, and/or guidance since the AiP was issued for the site.
 - (b) New contamination at the site since the Approval in Principle was issued.
 - (c) Changes to other conditions which may alter the validity of previous site investigation reports and the remediation plan for the site.

- 7.5.2 An amendment letter should be issued which would contain
- (a) A revised remediation schedule.
 - (b) A requirement for annual reporting on any changes at the site from an Approved Professional.
 - (c) A new date for the completion of remediation.

7.6 Rejection of applications

If a submission has been applied for by an ineligible applicant or is incomplete, incorrect or improperly prepared, it should be rejected. General requirements for the rejection of applications for instruments are provided in the Procedure 10, "Requirements for Service Application Resubmissions, Withdrawals and Amendments."

8.0 Templates for contaminated sites instruments and cover letters

Decisions and requirements of a Director must be communicated to proponents using standard letters and instruments based on current templates approved by the Director. These templates must be maintained and updated regularly by ministry staff. Appendix 2 lists the templates that are to be used and maintained for the purposes of this procedure document.

9.0 General requirements for preparing instruments

9.1 Lists of reports and plans

- 9.1.1 List all reports in the instrument necessary for the Director to make a decision. If a preapproval was issued by the Director under Protocol 6, it must be included in the report list. When an Approval in Principle is being followed by a Certificate of Compliance, list all relevant reports from the Approval in Principle in the Certificate of Compliance.
- 9.1.2 A complete copy of each report and plan listed in an instrument must be provided to the ministry unless the ministry has received a copy of that complete report in a previous submission or service application.
- 9.1.3 Generally, extracts and synopses of reports and plans are unacceptable unless the ministry already has the complete report upon which the extract or synopsis is based.

9.2 Site boundaries, plans and location maps

9.2.1 Site boundaries should be established by a Director according to the requirements of the ministry [Procedure 6, “Establishing the Boundaries of a Site”](#).

Site plan requirements

9.2.2 All site plans and location maps must fit onto a single page. The location map must show street names clearly so that it could be used as a road map to drive to the site.

9.2.3 Site plans and location maps should, where possible, be oriented north and clearly labelled with a north arrow and scale.

9.2.4 Site plans must be free of company logos and advertising.

9.2.5 The boundaries of the site covered by the instrument must have a heavily bolded line around the perimeter of the site to clearly delineate the site and to distinguish it from other boundaries that might appear on the site plan. Coloured site plans should be avoided to allow bolded lines to stand out when photocopied in black and white.

9.2.6 When a site covers multiple parcels, a light dashed line and parcel numbers indicating which parcels are included must be provided in the site plan.

9.2.7 Portions of legal parcels of land, in the case of offsite migration, must be shown by a metes and bounds description and plan, provided by a legal surveyor or an engineered drawing indicating the metes and bounds description. The name of the survey or engineering firm and the date of the drawing must be provided.

Written requirements

9.2.8 A written metes and bounds description must be provided in the instrument in the position required in the instrument template.

9.2.9 Where an instrument refers to more than one parcel of land and PID/PIN, the instrument must clearly indicate which PID/PIN belongs to each parcel. Include the civic address and parcel number beside each PID, for property owned by individuals and by strata corporations.

9.3 Land, water, vapour and sediment uses

9.3.1 Unless a protocol under the Act indicates otherwise, instruments should be restricted to a single land use, the primary land use at the surface of the site.

However, if different land use standards must apply to an instrument, for example, urban park land use standards for riparian zones along a water body, then a metes and bounds description must be provided for that area.

- 9.3.2 Instruments may contain multiple water, vapour and sediment uses for a site. If this approach is used, a list of each substance applying to a particular water, vapour or sediment use must be provided. Metes and bounds descriptions must be provided to describe each area of multiple uses.
- 9.3.3 If there are multiple uses of any environmental medium at the site, a metes and bounds description must be provided in the text of the instrument and the site plan to indicate each area of the environmental medium with a different use.

9.4 Substance lists

- 9.4.1 Substances should be grouped by substance class and listed alphabetically under a heading for each environmental medium. Omit the heading if there are no substances contained in a medium.
- 9.4.2 For sites with multiple uses for an environmental medium, e.g., both urban park and industrial land uses apply at a site; a substance may be a contaminant only with respect to one of the uses, e.g., urban park. In this situation contaminants must be listed in the instrument according to the environmental media to which they apply.
- 9.4.3 Subject to subsection 9.4.4, only those substances appearing in the Regulation and the Hazardous Waste Regulation may be listed in an instrument, and the exact spelling of each substance as it appears in the applicable regulation must be used. Laboratory reports may use synonyms for substances which differ from the chemical names used in the Regulation and are unacceptable for listing in an instrument.
- 9.4.4 Where an Approval in Principle or Certificate of Compliance is to be issued based on the risk-based standards, section 18 of the Regulation indicates that the remediation standards may only be applied to a site which was contaminated. This has the following implications:
- Because a site is legally contaminated only if it contains a substance exceeding one or more of the numerical standards in the Regulation, for an Approval in Principle or Certificate of Compliance to be issued the site must contain or have contained at least one contaminant for which there is a numerical standard in the Regulation.
 - A substance which does not have a numerical standard may be listed as meeting the risk-based standards in a Certificate of Compliance as long as the

site is or was a contaminated site as defined under the Act due to the presence of some other substance.

- A substance which does not have a numerical standard may not be listed as meeting the risk-based standards in a Certificate of Compliance.
- An Approval in Principle or Certificate of Compliance may not be issued if the site is or was not a contaminated site as defined under the Act.

9.5 Editorial requirements – instructions, fonts and size, cover letters

9.5.1 The instructions provided in instrument templates listed in Appendix 2 should be followed.

9.5.2 Instruments must have a consistent font type and size throughout the instrument, Times New Roman size 12. The text must be left justified in all instruments and cover letters. Simultaneous justification to both left and right margins should not be used.

9.5.3 The punctuation in cover letters and instruments should be carefully checked.

9.6 Checking the geographic coordinates for a site

The latitude and longitude (accurate to 0.5 second) for the centroid of the site must be provided in instruments and should be verified. Latitudes and longitudes representing the centre of a boundary of a site (e.g., at the street) are not acceptable.

10.0 Tracking time for Determinations of Contaminated Site

It is the responsibility of the Approved Professional recommending the application to track the time between the issuance of a Preliminary Determination and the Final Determination. The Final Determination documents must be available electronically and in hard copy after 30 days and before 60 days of the issuance of the Preliminary Determination.

11.0 Preparing conditions in Approvals in Principle, risk-based standards Certificates of Compliance and Contaminated Soil Relocation Agreements

11.1 If a preapproval under Protocol 6 of an application for an instrument was issued by the Director, any conditions identified in the preapproval must be included in Schedule B of the instrument.

11.2 Institutional and/or engineering controls may be required by a Director and may be identified in the instrument. Where required in an instrument, the controls normally should be in place before the instrument is issued.

11.3 The Director must assess each situation based on its facts, to ensure that an unreasonable burden is not unwittingly passed on to innocent third parties. Unreasonable burdens could include establishing site boundaries which inadvertently result in remediation liability for source parcels being passed on to neighbouring parcel owners, and for neighbouring parcel owners to be burden with remediation requirements instead of source parcel owners. Special care should be taken when remediation involves use restrictions on neighbouring affected lands.

11.4 Instrument modifications and fees

11.4.1 Upon acceptable request for modification, the Director may agree to changes to performance verification activities and/or reporting conditions, without amending or re-issuing an Approval in Principle, Certificate of Compliance or Contaminated Soil Relocation Agreement. Hourly ministry review fees will apply.

11.4.2 Ministry review fees apply to the submission of reports listed in Table 2 of Schedule 3 of the Regulation. The submission must be accompanied by a Contaminated Sites Services Application form. Ministry review fees also apply to any additional services and functions listed in Table 3 of Schedule 3.

11.4.3 Ministry review fees do not apply to the submission of a statement.

11.5 Schedule "B" for Approvals in Principle

While reporting on the progress of remediation must be a condition in all Approvals in Principle, the frequency and form of reporting may vary. Reporting may be in the form of an Approved Professional statement or a complete report. The selection of the form of reporting depends on site conditions and the remediation approach. The form of reporting in Approvals in Principle recommended by an Approved Professional would typically be an Approved Professional statement. Where ministry oversight is warranted, such as may be the case at a high risk site, reporting may be in the form of a complete report.

11.6 Schedule "B" for risk-based Certificates of Compliance

For this procedure document, risk-based remediation has been classified into three types (Type 1, 2 and 3). Descriptions of these remediation types and

associated risk assessment conditions and risk management measures, requirements for plans, record keeping and reporting are provided in Appendix 3, “Risk Assessment Conditions and Risk Management Measures by Remediation Type (Conditions in Certificates of Compliance Schedule B)”.

Example descriptions of remediation types 1, 2 and 3 are provided in Appendix 4. Specific conditions which must be included in Schedule B vary according to the remediation type and are identified in the Certificate of Compliance template in Appendix 2.

11.7 Contaminated Soil Relocation Agreements with risk-based soil deposit or relocation for the purpose of treating soil at the receiving site

11.7.1 Background

Authorization for relocation of contaminated soil to a receiving site for direct deposit, or for treatment followed by discharge may be done through a Contaminated Soil Relocation Agreement (CSRA).

Where CSRAs are issued and risk-based standards are applied at the receiving site, certain conditions may need to be maintained for the site to continue to meet risk-based standards.

In cases where contaminated soil is relocated under a CSRA for treatment, certain activities must be undertaken to ensure effective treatment before discharge of the soil. The specifics would depend on the remediation approach. In general, ensuring effective treatment would require monitoring of soil quality, inspection and maintenance of works, and sampling and assessment of soil quality before discharge. Also, reporting is needed to satisfy the ministry that the soil is being treated and was treated effectively.

Imposing conditions in these types of CSRAs is warranted in order to:

- comply with section 55 (2) of the Act;
- provide consistency for operators of soil treatment facilities that are authorized through permits under section 14 of the Act versus CSRAs;
- provide greater assurance to the public and local government that contaminated soil relocated to a receiving site would not be left unmanaged, unsuccessfully or partially treated or abandoned without treatment;
- provide consistency with the ministry’s compliance framework used in conjunction with other types of instruments; and
- facilitate compliance verification activities.

Security may be required.

11.7.2 Contaminated Soil Relocation Agreements with risk-based soil deposit

The risk assessment conditions and risk management measures for soil relocated to a deposit site (such as those in sections 46 (2) (a) and (b) of the Regulation for monitoring and inspection and maintenance of works) must be specified in a CSRA if risk-based standards are used as a basis for evaluating deposit site conditions. The remediation type, as described in Appendix 3, respecting Certificates of Compliance, will determine the applicable conditions which must be included in the CSRA. The conditions (see Template Attachment A in Appendix 2) should be included in the CSRA as an attachment to the form (Regulation Schedule 8). The template does not apply where relocation of soil would create a remediation type 3 circumstance as the Director would not normally approve such a CSRA.

11.7.3 Contaminated Soil Relocation Agreements with relocation for the purpose of treatment at a receiving site

Conditions which must be included in a CSRA authorizing soil relocation for treatment at a receiving site are set out in Template Attachment B in Appendix 2. In all cases, monitoring, record keeping and reporting conditions should be provided along with a limit on the amount of time that contaminated soil may remain at the facility.

12.0 Applications by source parcel owners for instruments for source and affected parcels

This section deals with applications for instruments for source and affected parcels by owners of parcels which are the source of contamination at affected parcels. The Director should issue instruments for these parcels in consideration of [Procedure 6, "Establishing the Boundaries of a Site."](#)

12.1 Information provided to affected parcel owners

In considering whether to issue instruments for a source parcel and affected parcel (s) or preapprovals for that purpose, the Director should consider whether the source parcel owner has followed the requirements for providing information to affected parcel owners described in Administrative Guidance 11, "Expectations and Requirements for Contaminant Migration".

12.2 Consultations, communications and communications records

12.2.1 In considering whether to issue an instrument for an affected parcel or a preapproval for that purpose, the Director should also consider whether the source parcel owner has provided to the Director a record of communications with each affected parcel owner which:

- (a) confirms that the information and communication attempts described in subsection 12.1 were provided with respect to each affected parcel owner, with the format, dates and times that information was provided;
- (b) if the information was not provided, indicate why it was not;
- (c) summarizes responses from each affected parcel owner including how concerns raised were addressed, or not. If concerns were not addressed the reasons should be provided; and
- (d) identifies whether or not each affected parcel owner agrees with the issuance of each, as applicable, of:
 - an instrument that combines the owner's affected parcel with the source parcel;
 - a separate instrument for the affected parcel;
 - a separate instrument for the source parcel.

12.2.2 Section 52 of the Act "Public consultation and review" provides authority for a Director to order a responsible person to provide for public consultation on proposed remediation or a public review of remediation activities. Under that section the Director may decide to order different consultation activities from those outlined in ministry guidance such as Administrative Guidance 11, "Expectations and Requirements for Contaminant Migration." In determining how and when to apply these order powers, a Director should review communications records provided in support of an application for an instrument.

12.3 Director's general response when information and communication requirements are not met

When one or more of the information and communication provisions referred to in subsection 12.1 or 12.2 are not met, the Director should respond to the applicant for the instrument describing the deficiencies and indicating that the instrument or preapproval application would be reconsidered when information correcting the deficiencies has been provided to the Director.

12.4 Director's response when communication requirements are met

12.4.1 Where the application is for a preapproval or instrument covering the source parcel and more than one affected parcels, the Director should consider comments from all affected parcel owners together.

12.4.2 When a source parcel applicant has met the information and communications requirements referred to in subsections 12.1 and 12.2, the draft instrument should be prepared. The examples in Appendix 5 cover a range of scenarios and should be reviewed before a draft instrument is finalized.

12.4.3 Factors that the Director should consider in deciding how to draft the instrument include:

- the degree of compliance with the requirements for the instrument in the Act (e.g., section 53 of the Act for Approvals in Principle and Certificates of Compliance);
- the degree of consistency with inherent objectives and principles of the contaminated sites legal regime if the instrument were issued;
- the adequacy, relevance and reasonableness of the information in the application package;
- the relevance and validity of any comments received;
- the extent of any burden (including use restrictions, remediation liability, and remediation obligations) that would be placed on affected parcel owners and operators if the instrument were issued; and
- the extent of any relief provided to the person responsible for the source parcel if the instrument were issued to that person.

13.0 Consultations with affected persons and applicants

13.1 Persons who would be affected by a decision of a Director to issue an instrument must be provided an opportunity to comment before the instrument is issued. If consultations were not required under section 52 of the Act, other consultations may still be necessary and appropriate because of administrative fairness requirements.

13.2 Persons consulted should be provided notices of the Director's intent to issue the instrument plus copies of the draft instrument in a form the Director is prepared to sign. Earlier drafts should not be provided to applicants or potentially affected persons.

13.3 The level of duty for consultations increases with the level of severity of the impact and harm on a person who would be affected by a decision of a Director.

- 13.4 A Director may rely on external sources (such as Approved Professionals) and take into account notice provided to affected parties by persons other than the Director, but he or she ultimately is responsible for ensuring that any decisions on issuing an instrument will meet administrative fairness standards.
- 13.5 While the definition of “owner” in section 39 of the Act may provide a useful reference for assessing risk of impact and harm, it is unlikely to be definitive. In each case, the Director should identify those persons who could be harmed or impacted by the issuance of the instrument. For example, the owner of a smoke easement is unlikely to be harmed by a decision, but a secured creditor who is not an owner or a responsible person may be entitled to consultations under administrative fairness requirements.

14.0 Signing instruments

Instruments should not be signed until all the preconditions have been met. These include security, such as letters of credit, covenants under section 492 of the *Land Title Act* which have been required by a Director and the payment of fees under the Regulation.

15.0 Cover letters and sending signed instruments

- 15.1 Current ministry templates for cover letters must be used.
- 15.2 All cover letters must be completed in full with names and addresses of all parties receiving copies of the correspondence.
- 15.3 Cover letters must be addressed to and sent to the applicant for an instrument.
- 15.4 The parties to receive copies are suggested in the templates for the instrument cover letters. A copy must be provided to the recommending Approved Professional and if there is no recommending Approved Professional, to the consultant preparing the submission. If the site is located within the ministry’s South Coast region (formerly the Lower Mainland region), that ministry’s office should be copied on the correspondence.
- 15.5 Where the applicant is not a responsible person for the site, copies of the cover letter and instrument must be sent both to the owners and current operators of the site and associated affected parcels.

- 15.6 For Determinations of Contaminated Site, copies of Preliminary and Final Determinations should be sent to:
- (a) the person who submitted the site profile, preliminary site investigation or detailed site investigation for the site,
 - (b) any of a municipality, an approving officer or the commission that received, assessed and forwarded to the director a site profile for the site to which the preliminary or final determination pertains,
 - (c) any person with a registered interest in the site as shown in the records of the land title office or a land registry office of a treaty first nation at the time of the determination,
 - (d) any person known to the Director who may be a responsible person under section 45, and
 - (e) any person who has commented on a Preliminary Determination for the site.
- 15.7 When a copy of a Determination of Contaminated Site is to be sent to a party who appears as a charge number on the land title, the full name and mailing address as well as the charge number must be provided and included on the Determination cover letter.
- 16.0 Addressing contamination discovered after a Certificate of Compliance is issued**
- 16.1 Subsections 15.2 and 15.3 apply only if there were no activities at a site which caused or may have caused contamination following the issuance of a Certificate of Compliance
- 16.2 Subject to subsection 15.1, if substances listed in a numerical standards based Certificate of Compliance were discovered after the Certificate was issued and were subsequently cleaned up by independent remediation, the Certificate of Compliance need not be amended. A note should be placed in the paper file for the site explaining the situation together with the Notifications of Independent Remediation. A case management notation should also be placed on the Site Registry explaining the situation.
- 16.3 Subject to subsection 15.1, if substances were discovered which were not listed a Certificate of Compliance when the Certificate was issued, and the additional substances were remediated to the numerical or risk-based standards, the applicant should be requested to ask for an amendment to the Certificate so the list of substances can be supplemented by a Director.

Appendix 1

Regulatory Checklist

- 1) What has gone on and is going on legally at the parcel in question and at neighbouring parcels? Have the Site Registry, AMS/WASTE, SWIS and Land Titles system been reviewed?
- 2) What is the compliance and enforcement history for the parcel and neighbouring parcels? Has COORs been reviewed?
- 3) What are the outstanding legal obligations in association with the parcel?

Under Part 4 and Part 5 of EMA

- Site profile submission requirements met (including freeze and release provisions)?
- Site investigation order (or requirements imposed) requirements met?
- Remediation order requirements met?
- Contaminated soil relocation agreement requirements met?
- Approvals required under protocols
 - ⇒ Protocol 2 – site-specific standards approval requirements met?
 - ⇒ Protocol 3 – blending of non-hazardous waste approval requirements met?
 - ⇒ Protocol 4 – background soil values approval requirements met?
 - ⇒ Protocol 7 – groundwater travel time approval requirements met?
 - ⇒ Protocol 9 – background groundwater values approval requirements met?
- Other preapprovals under Protocol 6 (may include some of the above) requirements met?
- Other non-Protocol preapprovals (e.g., to use approach other than that recommended in technical guidance) requirements met?
- Land, water, sediment, vapour use rulings by Director decisions reflected or requirements met?
- Notice submissions
 - ⇒ Notification of Migration requirements met?
 - ⇒ Notification of Independent Remediation requirements met?
 - ⇒ Site Risk Classification Report requirements met?
 - ⇒ Summary of Site Condition requirements met?
- Have public consultation and review requirements been met?

- Follow up to requirements imposed when independent remediation is being done, under section 54 (3) (d) in place?
- Conditions imposed in a contaminated sites legal instrument issued previously or to be issued
 - ⇒ Covenant requirements met?
 - ⇒ Security requirements met?
 - ⇒ Monitoring requirements met?
 - ⇒ Reporting requirements met?
 - ⇒ Record keeping requirements met?
- Fees required under EMA paid up?

Under Remaining Parts of EMA

- Spill reported to PEP under the Spill Reporting Regulation requirements met?
- Manifest, storage authorization, etc. under the Hazardous Waste Regulation requirements met?
- Discharge authorization under section 6 requirements met?
- Response to pollution abatement, pollution prevention or information order requirements met?
- Have the requirements of the Public Notification Regulation been met?

Other government requirements

- Site profile freeze and release requirements met? (*Local Government Act, Land Title Act, Vancouver Charter, Islands Trust Act, etc.*)
- *Mines Act* requirements met?
- *Oil and Gas Activities Act* requirements met?
- *Agricultural Land Reserve Act* requirements met?
- *Heritage Conservation Act* (archaeological issues) requirements met?
- *Federal Fisheries Act* (Environment Canada, Department of Fisheries and Oceans) requirements met?
- BC Fire Code (Fire Commissioner) requirements met?
- *Workers' Compensation Act* (WorkSafe BC issues) requirements met?
- Local government bylaws requirements met?
- Riparian Areas Regulation requirements met?
- Federal and provincial species at risk legislation requirements met?
- *Health Act* requirements met (e.g., setbacks for drinking water wells)?

Appendix 2

Templates for Preparing and Issuing Contaminated Sites Instruments

Templates must be developed and maintained for the following cover letters and instruments:

Cover letter templates

- Preliminary Determination cover letter template
- Final Determination cover letter template
- Approval in Principle cover letter template
- Certificate of Compliance cover letter template
- Contaminated Soil Relocation Agreement cover letter template

Instrument templates

- Preliminary Determination template
- Final Determination template
- Wide Area Site Designation template
- Approval in Principle template
- Certificate of Compliance template
- Contaminated Soil Relocation Agreement template
 - ⇒ Schedule 8 of the Regulation, and
 - ⇒ Attachment A (for relocation for direct deposit based on risk-based standards at the receiving site), or
 - ⇒ Attachment B (for relocation for treatment at a receiving site)]

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Appendix 3
Risk Assessment Conditions and Risk Management Measures
by Remediation Type

Risk assessment conditions and risk management measures by remediation type

Type	Risk Assessment Conditions & Risk Management Measures ¹	Plans ²			Record Keeping	Reporting	Examples
		PV	O&M	CP			
1	1) Site meets risk-based standards under current and future site circumstances and uses without intrinsic, engineering or institutional controls.	n/a	n/a	n/a	Not applicable	<ul style="list-style-type: none"> Reporting on whether conditions prescribed in Schedule B are being met may be required if requested by the Director (e.g., in conjunction with a ministry compliance verification audit). 	<ul style="list-style-type: none"> passes SLRA or DRA based on existing or proposed site conditions and site use (despite operative exposure pathways; quantified risks meet site specific risk-based standards) quantified risks meet site specific risk-based standards due to presence of intrinsic controls at the site
	2) Intrinsic control required but no risk management measures are required.	Yes	n/a	n/a			

¹ Key risk assessment conditions and risk management measures must be summarized and included as conditions in Schedule B.

² Details of plans must be determined on a site by site basis at the recommendation of an Approved Professional. Plan implementation must be included as a condition in Schedule B. PV, O&M and CP stand for performance verification, operations and maintenance and contingency plan, respectively.

³ An Operation and Maintenance Plan (O&M) and/or Contingency Plan (CP) may or may not be required depending on the nature of the risk management measures and whether ongoing management is required.

2	<p>1) Risk management is required.</p> <p>2) Risk management includes:</p> <p>(a) performance verification; and</p> <p>(b) works may or may not require on-going management.</p> <p>3) Failure of risk management measures or works will not likely result in any of the following conditions:</p> <p>(a) imminent exposure of site contaminants to humans at levels exceeding approved site- specific risk-based concentrations;</p> <p>(b) imminent discharge of contaminants to an aquatic receiving environment at concentrations exceeding B.C. Water Quality Guidelines or approved site-specific risk-based concentrations;</p> <p>(c) imminent exposure to terrestrial non-human receptors to contaminants at levels exceeding approved site-specific environmental risk-based concentrations; or</p> <p>(d) contaminant spreading at concentrations exceeding upper cap concentrations (see Protocol 11)</p>	Yes	Maybe 3	No	<p>Records of performance verification actions and results must be maintained by responsible person or agent</p> <p>Types of records may relate to:</p> <ul style="list-style-type: none"> • inspection of works • monitoring of media to confirm efficacy of works • maintenance of works (including repairs) • construction activities • soil management or disposal, etc. 	<ul style="list-style-type: none"> • Reporting on whether conditions prescribed in Schedule B are being met and/or submission of performance verification records may be required if requested by the Director (e.g., in conjunction with a ministry compliance verification audit). 	<ul style="list-style-type: none"> • asphalt cover • vapour barrier • fencing • institutional controls such as: signage (no digging, no trespassing); restricted soil disturbance or land use, etc.
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3	<p>1) Risk management is required.</p> <p>2) Risk management includes:</p> <p>(a) performance verification; and</p> <p>(b) works may or may not require ongoing management.</p> <p>3) Failure of risk management measures or works will likely result in one or more of the following conditions:</p> <p>(a) imminent exposure of site contaminants to humans at levels exceeding approved site- specific risk-based concentrations;</p> <p>(b) imminent discharge of contaminants to an aquatic receiving environment at concentrations exceeding B.C. Water Quality Guidelines or approved site-specific risk-based concentrations;</p> <p>(c) imminent exposure to terrestrial non-human receptors to contaminants at levels exceeding approved site-specific environmental risk-based concentrations or</p> <p>(d) contaminant spreading at concentrations exceeding upper cap concentrations (see Protocol 11).</p>	Yes	Maybe ³	Maybe ³	<p>Records of performance verification actions and results to be maintained by responsible person or agent</p> <p>Types of records may relate to:</p> <ul style="list-style-type: none"> • inspection of works • monitoring of media to confirm efficacy of works • maintenance of works (including repairs) • construction activities • soil management or disposal, etc. 	<ul style="list-style-type: none"> • Submission of performance verification records may be required if requested by a Director. • Notification if performance verification actions indicate that prescribed risk management measures are not functioning effectively (excepting routine maintenance/ repair), discharges from the works exceed concentration limits prescribed in any discharge authorization and/or contingency action is triggered. • Regular reporting at a frequency set out in Schedule B. Reporting details and form of reporting (i.e., statement or report) would depend on site conditions and risk management approach. 	<ul style="list-style-type: none"> • leachable contaminated soil in lined cell • groundwater extraction and treatment system • soil vapour extraction and treatment system • engineered barrier system or reactive wall • in situ soil treatment system • in situ water treatment system • ex situ soil treatment system
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Appendix 4

Certificate of Compliance Schedule “B”

**Examples of Remediation Type 1, 2 and 3 Principal Risk Assessment Conditions
and Risk Management Measures**

1.0 General

While risk management can be implemented to mitigate or eliminate risks at a parcel, it is also possible that a risk assessment may identify an intrinsic control that passively mitigates or eliminates risks at a parcel. In some cases, intrinsic controls identified in a risk assessment must be present and maintained to ensure continued compliance with the risk-based standards. Even though no engineering or institutional control (i.e., active risk management measure) would be needed, the intrinsic controls that need to remain in place must be identified and included as mandatory principal risk assessment conditions in subsection 1 of Schedule B of the Certificate of Compliance for the site.

2.0 Remediation type 1

Under remediation type 1, no risk management measures are required.

Case 1. No intrinsic controls or risk management measures required

For remediation type 1 – the risk assessment indicates that the parcel meets the risk-based standards under current and future site circumstances and uses without the need for any intrinsic controls or the need to implement any engineering or institutional controls (risk management measures). Despite the presence of a toxic agent, a receptor and an operative exposure pathway at the parcel, the level of risk calculated in the risk assessment meets the risk-based standards. In that case, no principal risk assessment conditions or risk management measures would need to be identified or included in subsection 1 of Schedule B of the Certificate of Compliance for the site.

Case 2. Intrinsic controls required

At some remediation type 1 parcels, one or more intrinsic controls may need to be maintained to ensure that the risk-based standards continue to be met under future parcel circumstances and uses.

Example

A parcel has a high density residential use and the risk assessment indicates that the direct soil ingestion pathway of exposure is inoperative because contamination lies 20 m below ground surface. This intrinsic control must be included as a mandatory principal risk assessment condition in subsection 1 of Schedule B in the Certificate of Compliance for the site:

- (a) a minimum of 20 m of uncontaminated soil must remain in place above contaminated soil at the site.

3.0 Remediation type 2

Under remediation type 2, risk management measures are required, but if they fail, there would be no immediate spreading of contaminants or imminent exposure to or discharge of contaminants.

Case 3. One or more risk management measures and no intrinsic controls required

If the risk assessment indicates that some conditions at a parcel will require implementation of risk management measures to meet risk-based standards, the principal risk management measures must be identified and included in subsection 1 of Schedule B of the Certificate of Compliance for the site.

Example

This example is for a parcel with engineering and institutional controls but no intrinsic controls.

At a high density residential parcel the risk assessment indicates that the direct soil ingestion pathway of exposure is operative and that quantified direct soil ingestion risks for children, but not adults, exceed the risk-based standards. A contractual renter's agreement is in place which limits parcel use of the lands to adults, only. The risk assessment also identified exceedance of the risk-based standards for both children and adults related to uptake and bioaccumulation of soil contaminants, should fruit or nut trees be grown at the parcel. In addition, risks related to long-term use of untreated groundwater as drinking water at the parcel exceed the risk-based standards. However, all groundwater used on the parcel is treated using a centralized engineered system to reduce contaminant concentrations to less than the Schedule 6 drinking water standards.

Subsection 1 of Schedule B would include:

- (a) children must not reside at the site;
- (b) the site must not be used to grow fruit or nut trees;
- (c) untreated groundwater must not be used for drinking water purposes;
- (d) the groundwater treatment system installed at the site must be functioning effectively.

Case 4. One or more risk management measures and intrinsic controls required

It is also possible that the risk assessment could indicate that:

- a) some intrinsic controls need to be maintained to ensure that the risk-based standards will continue to be met under current and future parcel circumstances and parcel uses, and
- b) some conditions at the parcel will require implementation of risk management measures to meet risk-based standards.

In this case, subsection 1 in Schedule B would list those principal intrinsic controls and risk management measures which would have to remain in place in order for the risk-based standards to be met at the site.

Example

This example is for a parcel with one intrinsic control and both types of risk management measures.

A parcel has a single family residential land use and the risk assessment indicates that the direct soil ingestion pathway of exposure is inoperative because contamination lies 2 m below ground surface. The risk assessment also identified exceedance of the risk-based standards related to uptake and bioaccumulation of soil contaminants, should fruit or nut trees be grown at the parcel. In addition, calculated acute risks related to use of untreated groundwater as drinking water at the parcel exceed the risk-based standards. However, the groundwater to drinking water pathway is considered to be inoperative because the parcel is serviced by municipal water supply. The risk assessment also identified risks in excess of the risk-based standards related to chronic indoor exposure to soil vapours within the single family residential dwelling located at the parcel. However, indoor soil vapour exposure will be negated by an engineered passive soil vapour collection and ventilation system to be installed in the dwelling. If the soil vapour collection and venting system to be installed was to operate improperly or fail completely for an extended period of time, adverse long term impacts on the residents would result, but short term failure of the system would not represent an immediate risk to residents.

Subsection 1 of Schedule B would include:

- (a) a minimum 2 m of uncontaminated soil must remain in place above contaminated soil at the site;
- (b) the site must not be used to grow fruit or nut trees;
- (c) groundwater must not be used for drinking water purposes;
- (e) a passive soil vapour collection and ventilation system having operational characteristics as described in the risk assessment must be installed in the residence located on the site;

- (e) the installed passive soil vapour collection and ventilation system must be annually inspected and certified as operating correctly by a Professional Engineer.

4.0 Remediation type 3

A remediation type 3 parcel is the same as a remediation type 2 parcel in that engineering, institutional and intrinsic controls may be involved; however, additional provisions may be required related to actions to be taken should failure of risk management measures or works be likely to result in:

- imminent exposure of humans to site contaminants at levels exceeding approved site-specific risk-based concentrations;
- imminent discharge of contaminants to an aquatic receiving environment at concentrations exceeding BC Water Quality Guidelines or approved site-specific aquatic life risk-based concentrations;
- imminent exposure to terrestrial non-human receptors to contaminants at levels exceeding approved site-specific environmental risk-based concentrations, or
- contaminant spreading at concentrations exceeding upper cap concentrations (see Protocol 11, “Upper Cap Concentrations of Substances”).

Case 5. One or more risk management measures and intrinsic controls required

Example

A parcel will be redeveloped for a single family residential land use and the risk assessment indicates that the direct soil ingestion pathway of exposure is inoperative because contamination lies 2 m below ground surface. The risk assessment also identified exceedance of the risk-based standards related to uptake and bioaccumulation of soil contaminants, should fruit or nut trees be grown at the parcel. In addition, calculated acute risks related to use of untreated groundwater as drinking water at the parcel exceed the risk-based standards. However, the groundwater to drinking water pathway is considered to be inoperative because the parcel is serviced by municipal water supply. The risk assessment also identified risks in excess of the risk-based standards related to acute indoor exposure to soil vapours within the single family residential dwelling to be constructed on the parcel. Outdoor soil vapour contaminant concentrations measured in the breathing zone on the parcel do not exceed

Schedule 11 vapour standards. Indoor soil vapour contaminant concentrations in the residence to be constructed on the parcel are predicted to exceed Protocol 11 vapour upper cap concentrations. However, indoor soil vapour exposure will be negated by an engineered active soil vapour collection and ventilation system to be installed in the dwelling. If the active soil vapour collection and venting system to be installed was to operate improperly or fail completely for even a short period of time, immediate and serious risks to the residents would result.

Then subsection 1 of Schedule B would include:

- (a) a minimum 2 m of uncontaminated soil must remain in place above contaminated soil at the site;
- (b) the site must not be used to grow fruit or nut trees;
- (c) groundwater must not be used for drinking water purposes;
- (d) an active soil vapour collection and ventilation system having operational characteristics as described in the risk assessment must be installed in the residence to be located on the site;
- (e) the installed active soil vapour collection and ventilation system must be annually inspected and certified as operating correctly by a Professional Engineer;
- (f) the active soil vapour collection and venting system must incorporate an automatic alarm system to warn residents, the fire department and emergency services of any system failure;
- (g) residents must be informed of required evacuation procedures to be followed in the event of failure of the active soil vapour collection and venting system installed at the site;
- (h) residents must participate in annual safety drills of evacuation procedures to be followed in the event of failure of the active soil vapour collection and venting system.

Appendix 5

Examples to Consider While Preparing Draft Instruments

1) Sufficient information to develop risk assessment or remediation plans; affected parcel owners did not object to issuance of instruments

Scenario 1

Risk assessment and/or remediation plans have been completed for an affected parcel based on information obtained at the affected parcel, the source parcel or perimeter of the affected parcel. The affected parcel owner did not object to the issuance of the instruments for the source and affected parcels applied for by the source parcel owner.

The affected parcel owner either:

- failed to respond within 30 days following the second attempt at communication by the source parcel owner,
- indicated that he had no comments, or
- concurred with the draft instruments for the affected and source parcels.

Under these circumstances the Director issued the instruments requested for the affected and source parcels, after ensuring that other applicable requirements were met.

2) Sufficient information to develop risk assessment or remediation plans; affected parcel owners objected to issuance of instruments

Scenario 2

A risk assessment and/or remediation plan was completed for an affected parcel based on information obtained at the affected parcel, the source parcel or perimeter of the affected parcel. The affected parcel owner opposed risk-based remediation proposed by the source parcel owner for the affected parcel because of a preference for remediation to the numerical standards.

The Director noted that under section 16 of the Regulation, the numerical and risk-based standards are equally acceptable as remediation standards and that there would be no significant burden for liability or remediation placed on the affected parcel owner if the instrument were issued. The Director issued the instrument based on the risk-based standards, despite the preference of the affected parcel owner for remediation to the numerical standards, after other applicable requirements were met.

Scenario 3

If specific numerical standards had applied at the site described in Scenario 2 (e.g., the drinking water use numerical standards applied at the boundary of a parcel), then the Director took the application of those standards into account by issuing the instrument based on the numerical standards for drinking water and the risk-based standards for the remainder.

Scenario 4

This scenario involves a request by an affected parcel owner for remediation to numerical standards for a water use that differed from the use proposed by the source parcel owner (which had been approved by the Director under section 12 (5) of the Regulation). The Director issued the instrument based on the application by the source parcel owner and other relevant considerations including those related to the water use of the parcel approved by the Director.

Scenario 5

An affected parcel owner wanted a source parcel owner to provide a Certificate of Compliance for the remediation of contaminants at the affected parcel which did not originate from a source parcel, in addition to those which came from the source parcel.

The Director issued the instrument only for those substances at the affected parcel that originated from the source parcel. Under section 46 (1) (j) of the Act, an affected parcel owner is not responsible for the remediation of contamination that was caused only by the migration of substances from a source parcel owned by a different person. This, however, does not apply to contamination which did not migrate to the affected parcel from other parcels. In this Scenario, the Director's decision reflected responsibility for contamination which was attributable to the source parcel owner.

3) Insufficient information to develop risk assessment or remediation plan

Scenario 6

There was not enough information obtained at an affected parcel, source parcel or perimeter of the affected parcel to complete a risk assessment and/or remediation plan for the affected parcel.

Since there was insufficient information upon which to base the application for an instrument for the affected parcel, the application for an instrument for the affected parcel was rejected by the Director.

Scenario 7

The source parcel owner applied for an instrument for the source parcel. Because the affected parcel owner refused access to his parcel for investigations, it was not known

whether contamination had migrated from the source parcel to the neighbouring parcel or if it had, if the migrating contaminants had been addressed.

The Director issued the instrument for the source parcel because it could not be determined if the entire area of contamination had been addressed.

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